

**LAND USE APPLICATION PROCESSING**

2007 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Michael T. Morley**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill modifies county and municipal land use development and management provisions relating to the processing of land use applications.

**Highlighted Provisions:**

This bill:

▸ requires counties and municipalities to determine in a timely manner whether a land use application is sufficient for land use authority review;

▸ authorizes an applicant to request that a county or municipality provide information on the status of a land use application and requires a response from the county or municipality;

▸ authorizes an applicant to require a county or municipal land use authority to take final action on a land use application if the county or municipality fails to respond to the applicant's request relating to the application's status;

▸ requires a county or municipal land use authority to take final action within a specified time if an applicant submits a request for final action;

▸ requires counties and municipalities that deny a land use application after a request for final action to state in writing and on the record the reasons for the denial; and

▸ prohibits a county or municipality's failure to process a land use application with reasonable diligence to form the basis of a claim against the county or municipality.

**Monies Appropriated in this Bill:**



28 None

29 **Other Special Clauses:**

30 None

31 **Utah Code Sections Affected:**

32 AMENDS:

33 **10-9a-509**, as last amended by Chapters 257 and 289, Laws of Utah 2006

34 **17-27a-508**, as last amended by Chapters 257 and 289, Laws of Utah 2006



36 *Be it enacted by the Legislature of the state of Utah:*

37 Section 1. Section **10-9a-509** is amended to read:

38 **10-9a-509. When a land use applicant is entitled to approval -- Exception --**  
39 **Municipality may not impose unexpressed requirements -- Municipality required to**  
40 **comply with land use ordinances.**

41 (1) (a) An applicant is entitled to approval of a land use application if the application  
42 conforms to the requirements of the municipality's land use maps, zoning map, and applicable  
43 land use ordinance in effect when a complete application is submitted and all fees have been  
44 paid, unless:

45 (i) the land use authority, on the record, finds that a compelling, countervailing public  
46 interest would be jeopardized by approving the application; or

47 (ii) in the manner provided by local ordinance and before the application is submitted,  
48 the municipality has formally initiated proceedings to amend its ordinances in a manner that  
49 would prohibit approval of the application as submitted.

50 (b) The municipality shall process an application without regard to proceedings  
51 initiated to amend the municipality's ordinances if:

52 (i) 180 days have passed since the proceedings were initiated; and

53 (ii) the proceedings have not resulted in an enactment that prohibits approval of the  
54 application as submitted.

55 (c) An application for a land use approval is considered submitted and complete when  
56 the application is provided in a form that complies with the requirements of applicable  
57 ordinances and all applicable fees have been paid.

58 (d) The continuing validity of an approval of a land use application is conditioned upon

59 the applicant proceeding after approval to implement the approval with reasonable diligence.

60 (e) A municipality may not impose on a holder of an issued land use permit a  
61 requirement that is not expressed:

62 (i) in the land use permit or in documents on which the land use permit is based; or

63 (ii) in this chapter or the municipality's ordinances.

64 (f) A municipality may not withhold issuance of a certificate of occupancy because of  
65 an applicant's failure to comply with a requirement that is not expressed:

66 (i) in the building permit or in documents on which the building permit is based; or

67 (ii) in this chapter or the municipality's ordinances.

68 (2) A municipality is bound by the terms and standards of applicable land use  
69 ordinances and shall comply with mandatory provisions of those ordinances.

70 (3) (a) Each municipality shall~~[-process and render a decision on each land use~~  
71 ~~application with reasonable diligence.];~~

72 (i) determine in a timely manner whether a land use application is sufficient for land  
73 use authority review; and

74 (ii) process the application to approval or denial with reasonable diligence.

75 (b) After allowing a municipality a reasonable period of time to give diligent  
76 consideration to a land use application, an applicant may request in writing that the  
77 municipality provide a written determination that the application is:

78 (i) sufficient for land use authority review; or

79 (ii) deficient.

80 (c) Within 30 days after receipt of a request under Subsection (3)(b), the municipality  
81 shall send a written notice to the applicant stating that:

82 (i) the application is:

83 (A) sufficient for further processing; and

84 (B) scheduled for land use authority review;

85 (ii) the application is deficient because of a failure to comply with one or more criteria  
86 established in ordinance that the notice specifies; or

87 (iii) the applicant needs to supplement the application with additional information that  
88 the notice specifies, providing the basis for the request for additional information.

89 (d) If a municipality fails to provide the written notice required under Subsection (3)(c)

90 within the required 30-day period:

91 (i) the applicant may request in writing that the municipality's land use authority take  
92 final action on the land use application; and

93 (ii) the municipality's land use authority shall take final action on the land use  
94 application within 45 days after the land use authority's receipt of the written request under  
95 Subsection (3)(d)(i).

96 (e) If a municipality denies a land use application upon which final action is taken  
97 under Subsection (3)(d)(ii), the municipality shall state in writing and on the record its reasons  
98 for the denial.

99 (f) A municipality's failure to process a land use application with reasonable diligence  
100 may not form the basis of any claim against the municipality.

101 Section 2. Section **17-27a-508** is amended to read:

102 **17-27a-508. When a land use applicant is entitled to approval -- Exception --**  
103 **County may not impose unexpressed requirements -- County required to comply with**  
104 **land use ordinances.**

105 (1) (a) An applicant is entitled to approval of a land use application if the application  
106 conforms to the requirements of the county's land use maps, zoning map, and applicable land  
107 use ordinance in effect when a complete application is submitted and all fees have been paid,  
108 unless:

109 (i) the land use authority, on the record, finds that a compelling, countervailing public  
110 interest would be jeopardized by approving the application; or

111 (ii) in the manner provided by local ordinance and before the application is submitted,  
112 the county has formally initiated proceedings to amend its ordinances in a manner that would  
113 prohibit approval of the application as submitted.

114 (b) The county shall process an application without regard to proceedings initiated to  
115 amend the county's ordinances if:

116 (i) 180 days have passed since the proceedings were initiated; and

117 (ii) the proceedings have not resulted in an enactment that prohibits approval of the  
118 application as submitted.

119 (c) An application for a land use approval is considered submitted and complete when  
120 the application is provided in a form that complies with the requirements of applicable

121 ordinances and all applicable fees have been paid.

122 (d) The continuing validity of an approval of a land use application is conditioned upon  
123 the applicant proceeding after approval to implement the approval with reasonable diligence.

124 (e) A county may not impose on a holder of an issued land use permit a requirement  
125 that is not expressed:

126 (i) in the land use permit or in documents on which the land use permit is based; or

127 (ii) in this chapter or the county's ordinances.

128 (f) A county may not withhold issuance of a certificate of occupancy because of an  
129 applicant's failure to comply with a requirement that is not expressed:

130 (i) in the building permit or in documents on which the building permit is based; or

131 (ii) in this chapter or the county's ordinances.

132 (2) A county is bound by the terms and standards of applicable land use ordinances and  
133 shall comply with mandatory provisions of those ordinances.

134 (3) ~~(a) Each county shall [process and render a decision on each land use application  
135 with reasonable diligence.];~~

136 (i) determine in a timely manner whether a land use application is sufficient for land  
137 use authority review; and

138 (ii) process the application to approval or denial with reasonable diligence.

139 (b) After allowing a county a reasonable period of time to give diligent consideration to  
140 a land use application, an applicant may request in writing that the county provide a written  
141 determination that the application is:

142 (i) sufficient for land use authority review; or

143 (ii) deficient.

144 (c) Within 30 days after receipt of a request under Subsection (3)(b), the county shall  
145 send a written notice to the applicant stating that:

146 (i) the application is:

147 (A) sufficient for further processing; and

148 (B) scheduled for land use authority review;

149 (ii) the application is deficient because of a failure to comply with one or more criteria  
150 established in ordinance that the notice specifies; or

151 (iii) the applicant needs to supplement the application with additional information that

152 the notice specifies, providing the basis for the request for additional information.

153 (d) If a county fails to provide the written notice required under Subsection (3)(c)  
154 within the required 30-day period:

155 (i) the applicant may request in writing that the county's land use authority take final  
156 action on the land use application; and

157 (ii) the county's land use authority shall take final action on the land use application  
158 within 45 days after the land use authority's receipt of the written request under Subsection  
159 (3)(d)(i).

160 (e) If a county denies a land use application upon which final action is taken under  
161 Subsection (3)(d)(ii), the county shall state in writing and on the record its reasons for the  
162 denial.

163 (f) A county's failure to process a land use application with reasonable diligence may  
164 not form the basis of any claim against the county.

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**Legislative Review Note**  
**as of 1-15-07 8:50 AM**

**Office of Legislative Research and General Counsel**

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**H.B. 129 - Land Use Application Processing**

**Fiscal Note**

2007 General Session

State of Utah

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**State Impact**

Enactment of this bill will not require additional appropriations.

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**Individual, Business and/or Local Impact**

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.

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*1/25/2007, 7:59:20 AM, Lead Analyst: Wardrop, T.*

**Office of the Legislative Fiscal Analyst**